



March 9, 2015

VIA CERTIFIED MAIL

Liberty Metal Recycling, Inc.
5535 Alba Street
Los Angeles, California 90058

Sindy Cardona
Owner and Operator
Liberty Recycling, Inc.
5535 Alba Street
Los Angeles, California 90058

Ludin Arreaga
Owner, Operator, and President
Liberty Metal Recycling, Inc.
5535 Alba Street
Los Angeles, California 90058

Kender Arreaga
Manager
Liberty Metal Recycling, Inc.
5535 Alba Street
Los Angeles, California 90058

VIA UNITED STATES MAIL

Ludin Arreaga
Registered Agent for Liberty Metal Recycling, Inc.
5535 Alba Street
Los Angeles, California 90058

Syrous & Lobat Senemar
Property Owner of 5535 Alba Street
PO Box 577
Yorba Linda, California 92885

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper ("Waterkeeper") in regard to violations of the Clean Water Act¹ and California's Storm Water Permit² ("Storm Water Permit") occurring at the Liberty Metals Recycling facility, located at 5535 Alba Street, Los Angeles, CA 90058 ("Liberty Facility" or "Facility"). The purpose of this letter is to put the owners and/or operators of the Liberty Facility³ on notice of the violations of the Storm Water Permit occurring at the Liberty Facility, including, but not limited to, violations caused by discharges of polluted storm water from the Liberty Facility into local surface waters and the failure to comply with the substantive and procedural requirements of the Storm Water Permit. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the Liberty Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Waterkeeper has obtained via Public Records Act requests documents and information relating to the Liberty Facility, including documents submitted by the Liberty Facility Owners and/or Operators to the Los Angeles Regional Water Quality Control Board ("Regional Board").

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

² National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.

³ The Liberty Facility's Owner(s) and/or Operator(s) are described in detail in Section I.B below.

Waterkeeper has also visually observed the industrial activities at the Liberty Facility and conducted sampling of storm water discharges from discharge points at the Facility. The violations of the Storm Water Permit and the Clean Water Act at the Liberty Facility described herein are based on Waterkeeper's review of the Regional Board documents and information, as well as Waterkeeper's observations and sampling data.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the chief administrative officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation.⁴

By this letter ("Notice Letter"), issued pursuant to 33 U.S.C. §§1365(a) and (b) of the Clean Water Act, Waterkeeper puts the Liberty Owner(s) and/or Operator(s) on notice that, after the expiration of sixty (60) days from the date of this letter, Waterkeeper intends to file an enforcement action in Federal court against them for violations of the Storm Water Permit and the Clean Water Act.

I. Background

A. Los Angeles Waterkeeper

Los Angeles Waterkeeper is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, California 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper reside in Los Angeles County, near the Los Angeles River and the Los Angeles Estuary. As explained in detail below, the owners and/or operators of the Liberty Facility have continuously discharged pollutants into Compton Creek, which flows into the Los Angeles River, Los Angeles River Estuary, the Los Angeles/Long Beach Harbor, the San Pedro Bay, the Long Beach City Beach, and the Pacific Ocean (collectively "Receiving Waters"), in violation of the Clean Water Act and the Storm Water Permit. Waterkeeper members use these waters and beaches to swim, boat, and kayak. Waterkeeper members also use the path alongside the Los Angeles River to bird watch, view wildlife, hike, bike, walk, and run. Additionally, Waterkeeper members use these waters to engage in scientific study through pollution and habitat monitoring and restoration activities, including Waterkeeper's Marine

⁴ 40 C.F.R. § 135.2(a)(1).

Program, Kelp Restoration Project, Marine Protected Areas Watch Project, Watershed Program, and Drain Watch Program. The unlawful discharge of pollutants from the Liberty Facility into the Receiving Waters impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by the Liberty Facility Owners' and/or Operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Owners and/or Operators of the Liberty Facility

Industrial dischargers, such as the Liberty Facility Owners and/or Operators, are required to submit a Notice of Intent ("NOI") to obtain Storm Water Permit coverage to the State Water Resources Control Board ("State Board").⁵ Information available to Waterkeeper indicates that the NOI to obtain Storm Water Permit coverage for the Facility was submitted to the State Board on April 20, 2012. The State Board confirmed receipt of the Liberty Facility Owners' and/or Operators' NOI on May 9, 2012 ("NOI Receipt"). The NOI Receipt identifies the operator of the Liberty Facility as "Ludin Arreaga" and the facility name and location as "Liberty Metal Recycling Inc., 5535 Alba St, Los Angeles." However, additional information indicates that the Facility began industrial operations on or before August 23, 2011. *See* Complaint No. R4-2012-0061 for Administrative Civil Liability ("Complaint & ACL"). According to the Complaint & ACL, Regional Board staff inspected the Facility on September 11, 2011, confirmed the site was not permitted under the Storm Water Permit, and advised Sindy Cardona Escobar of the requirement to file an NOI. As stated above, an NOI was not submitted until April 20, 2012.

Information available to Waterkeeper indicates that the Liberty Facility is owned and/or operated by Liberty Metal Recycling, Inc., Sindy Cardona, and/or Ludin Arreaga. According to the Secretary of State's website Liberty Metal Recycling, Inc., is a corporation registered in California under entity number "C3283378." The Registered Agent for Liberty Metal Recycling, Inc., is Ludin Arreaga, 5535 Alba St, Los Angeles, California 90058. The Liberty Facility's Storm Water Pollution Prevention Plan, dated May 8, 2014,⁶ ("Liberty SWPPP") lists Ludin Arreaga as President and Kender Arreaga as Manager of Liberty Metal Recycling, Inc. The SWPPP also lists Ludin Arreaga and Kender Arreaga as being responsible to "[e]nsure that SWPPP is being properly implemented constantly reviewing employee performance and conducting inspections." Additionally, the California Integrated Water Quality System ("CIWQS") lists Sindy Cardona as "Owner Contact" for Liberty Metals Recycling, Inc.

Waterkeeper refers to Liberty Metal Recycling, Inc., Sindy Cardona, Ludin Arreaga and Kender Arreaga collectively as the "Liberty Facility Owners and/or Operators." As explained herein, the Liberty Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

⁵ Storm Water Permit, Finding 3.

⁶ Although the SWPPP has a May 8, 2014 date on it, the 2013-2014 Annual Report that was submitted on August 11, 2014, states "We do not have a SWPPP."

C. Storm Water Pollution and the Receiving Waters

With every significant rainfall event millions of gallons of polluted storm water originating from industrial operations such as the Liberty Facility pour into storm drains and the local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Polluted discharges from scrap metal recycling facilities, such as the Liberty Facility, contain pollutants such as: oil (including hydraulic and gear-oil) and grease ("O&G"); fuel; antifreeze; brake fluid; battery acid; gasoline, diesel and other petroleum products; solvents; detergents; paint; other hazardous waste fluids; substances affecting Biochemical Oxygen Demand ("BOD") and Chemical Oxygen Demand ("COD"); pH-affecting substances; total suspended solids ("TSS"); trash; plastics; pathogens (including bacteria); mercury; silver; chromium; cadmium; and heavy metals such as copper, iron, lead, aluminum, and zinc. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, developmental, or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters are ecologically sensitive areas. Although pollution and habitat destruction have drastically altered the natural ecosystem, the Receiving Waters are still essential habitat for dozens of fish and bird species, as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of the Receiving Waters for water contact sports and fishing exposes many people to toxic metals, pathogens and bacteria, and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

The Regional Board issued the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura County* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of the portions of the Los Angeles River Watershed (including the Receiving Waters) that receive polluted storm water discharges from the Liberty Facility. These Beneficial Uses include: water contact recreation ("REC 1"), non-contact water recreation ("REC 2"), warm freshwater habitat ("WARM"), ground water recharge ("GWR"), wildlife habitat ("WILD"), wetland ("WET"), estuarine habitat ("EST"), industrial service supply ("IND"), navigation ("NAV"), marine habitat ("MAR"), commercial fishing ("COMM"), rare, threatened, or endangered ("RARE"), migration of aquatic organisms ("MIGR"), and spawning, reproduction and/or early development ("SPWN"). See Basin Plan, Table 2-1. According to the 2010 303(d) List of Impaired Water Bodies, Compton Creek is impaired by coliform bacteria, copper, lead, trash and

pH.⁷ Reaches 1 and 2 of the Los Angeles River are impaired by pollutants such as pH, cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper, trash, zinc, and oil.⁸ The Los Angeles River Estuary is impaired by, among other pollutants, chlordane, sediment toxicity, and trash.⁹ The Los Angeles/Long Beach Harbor is impaired by at least chrysene, copper, sediment toxicity, mercury, and zinc.¹⁰ The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City Beach, one of the San Pedro Bay beaches, is impaired by indicator bacteria.¹¹ Polluted discharges from the Liberty Facility cause and/or contribute to the degradation of these already impaired surface waters, beaches, and aquatic dependent wildlife. The pollutants discharged into Compton Creek flow to the Pacific Ocean via Reaches 1 and 2 of the Los Angeles River, the Los Angeles River Estuary, Los Angeles/Long Beach Harbor, and San Pedro Bay. For the Los Angeles area aquatic ecosystem to regain its health, contaminated storm water discharges, including those from the Liberty Facility, must be eliminated.

D. Liberty Facility Site Description

The Liberty Facility is a metal recycling facility that has been in operation since at least August 23, 2011, according to a complaint received by the Regional Board indicating that the Facility was operating without the requisite coverage under the Storm Water Permit.

The Liberty Facility's NOI states that the Facility is 24,564 sq. ft. in size. The NOI also states that 25% of the site consists of impervious surfaces. However, the Liberty SWPPP states that 100% of the Facility is paved. Based on Waterkeeper's observations, the Facility has two overhead structures on the site, but the majority of the Facility is uncovered. The Facility has three driveways leading to Alba Street on the eastern border of the site. The northernmost driveway provides access to the uncovered outdoor work area north of the warehouse. The middle driveway provides access to the warehouse. The southernmost driveway provides access to the uncovered portion of the site south of the warehouse. The Liberty Facility also has a fourth driveway on the southern boundary of the site, leading to East 57th Street.

Based on the information available to Waterkeeper, the Liberty Facility receives metal scraps as well as batteries, alternators, motors, catalytic converters, radiators, water heaters, refrigerators, tires, and a variety of other materials. These materials are sorted and stored in large uncontained and uncovered piles throughout the facility, including near the driveways to both Alba Street and East 57th Street.

⁷ 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on February 20, 2015).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

1. Liberty Facility Industrial Activities and Pollutant Sources

The Liberty Facility's active NOI states the Liberty Facility WDID number as "4 19I023630" and the Standard Industrial Classification ("SIC") code of regulated activity as "5093" (Scrap and Waste Materials). However, based on information available to Waterkeeper, the Liberty Facility also conducts regulated industrial activities, such as the storage of hazardous waste fluids, that are classified under SIC code 4953 (Hazardous Waste Treatment, Storage, or Disposal). *See* Liberty SWPPP, 16.

Sources of pollutants associated with the industrial activities at the Liberty Facility include, but are not limited to: customer unloading areas; sorting areas; uncovered and uncontained piles of materials; the on-site buildings and overhead structures; dismantling and separating areas; hazardous waste storage areas; and on-site material handling equipment such as grinders, balers, forklifts, tractors, and trucks.

Information available to Waterkeeper indicates that scrap materials collected at the Liberty Facility are stored outdoors and near driveways leading from the Liberty Facility to Alba Street and East 57th Street, without adequate cover or containment to prevent storm water exposure to these pollutant sources. Further, the Liberty Facility lacks sufficient secondary containment or other measures to prevent polluted storm water and prohibited non-storm water discharges from the Liberty Facility.

2. Liberty Facility Pollutants and Discharge Points

The pollutants associated with operations at the Liberty Facility include, but are not limited to: trash, oil and grease from waste materials being collected and stored at the Facility and from leaks and spills of equipment and machinery used at the facility; gasoline, diesel and other petroleum products used at the facility; lubricants; coolants; battery acid; hazardous waste fluids, including but not limited to vehicle waste fluids; electronic waste; heavy metals such as aluminum, copper, iron, lead, zinc, and nickel; substances affecting Biochemical Oxygen Demand and Chemical Oxygen Demand from wastes being recycled or from the recycling operations; suspended solids from the recycled wastes or from the operations at the facility; pH-affecting substances; mercury; silver; chromium; and cadmium.

The Regional Board inspected the Facility on August 29, 2014 and based on those observations, issued a "Notice to Comply." The Notice to Comply recorded violations of the Permit's Section A, relating to the SWPPP requirements, and Section B, relating to the Monitoring and Reporting Program (M&RP) requirements. The Notice to Comply also documented that BMPs need to be improved.

The Facility's SWPPP narratively identifies two discharge points described as the "Northwest Gate" and the "Southeast Gate." Liberty SWPPP, 20. However, according to the SWPPP's site map, there are no gates or driveways located at the northwest or southeast

boundaries of the Facility.¹² Based on Waterkeeper's observations, there are at least two discharge points from the Liberty Facility, located at the Facility's southernmost driveway leading to Alba Street ("Alba St. #1") and a discharge location not identified on the Liberty SWPPP's Facility Map, discharging from underneath the Facility's eastern wall bordering Alba St., south of the Facility's southernmost driveway on Alba St. ("Alba St. #2"). In addition, Waterkeeper has observed debris and track-off from the Facility at the driveway leading to East 57th Street.

II. Violations of the Clean Water Act and the Storm Water Permit

A. Failure to Comply with Notice of Intent Requirements in Violation of Provision E(1) of the Storm Water Permit

Section 301(a) of the Clean Water Act prohibits the discharge of a pollutant into navigable waters except as in compliance with specified sections of the Act, including section 402. 33 U.S.C. § 1311(a). Section 402(p) establishes a framework for regulating industrial storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. *See id.* at §1342(p). In order to lawfully discharge storm water in California, certain industrial operations must obtain coverage under the NPDES General Storm Water Permit and comply with its terms, or obtain and comply with an individual NPDES permit. *Id.* at §1342. Scrap recycling (SIC Code 5093) and hazardous waste storage and/or disposal (SIC code 4953) are specifically covered under the Storm Water Permit and operators carrying out these activities must comply with the requirements and effluent limitations of the Storm Water Permit. *See* Storm Water Permit, Attachment 1.

The Storm Water Permit allows facilities with co-located industrial activities to include those activities in the same NOI. Storm Water Permit, Provision E(7). However, the NOI must identify the SIC codes and titles of the industrial activities that require the Owner and/or Operator to submit the NOI. *See* Storm Water Permit, Attachment 3 (NOI Instructions), Section III, Parts D and E; Storm Water Permit, Provision E(7). Industrial facilities engaged in activities under SIC code 4953 (hazardous waste treatment, storage, and/or disposal) are required to file an NOI and obtain coverage under the Storm Water Permit. *See* Storm Water Permit, Attachment 1. The Liberty Facility's Storm Water Pollution Prevention Plan ("Liberty SWPPP") indicates that the Liberty Facility Owners and/or Operators conduct activities at the Facility, which subject it to SIC code 4953, including the storage of hazardous waste fluids, but the Liberty Facility Owners and/or Operators failed to identify the associated SIC code in the Liberty NOI. The Liberty NOI lists SIC code 5093 as the only SIC code applicable to the industrial activities conducted at the Liberty Facility. Accordingly, by conducting activities subject to SIC code 4953, the Liberty Facility Owners and/or Operators are in ongoing violation of the Storm Water Permit's NOI

¹² The SWPPP's inaccurate description of the Facility's discharge points as "Northwest Gate" and "Southeast Gate" suggests that the Liberty SWPPP contains remnants of another facility's SWPPP.

requirements and Provision E(1).¹³ See Storm Water Permit, Provisions E(1); Storm Water Permit, Attachment 3 (NOI Instructions), Section III.

Additionally, the Storm Water Permit requires that the Liberty Owners and/or Operators provide the total size of the facility. See *id.* Although the Liberty SWPPP's Facility Map indicates that the total size of the Facility is 55,200 sq. ft., the Liberty NOI states the total size of the Facility as 24,564 sq. ft. Therefore, the Liberty Owners and/or Operators are in ongoing violation of the Storm Water Permit's NOI requirements and Provision E(1) for failing to accurately state the total size of the Liberty Facility in the Liberty NOI. *Id.*

Information available to Waterkeeper indicates that the Liberty Owners and/or Operators are in violation of the Storm Water Permit by, at a minimum, failing to include all regulated industrial activities conducted at the Liberty Facility in the Liberty NOI and failing to accurately state the total size of the Liberty Facility. Every day the Liberty Facility Owners and/or Operators operate the Liberty Facility without an NOI that accurately reflects the size of the Liberty Facility and its industrial activities is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Liberty Facility Owners and/or Operators have been in daily and continuous violation of the requirement to comply with the Storm Water Permit every day since obtaining coverage under the Storm Water Permit on April 20, 2012. These violations are ongoing, and Waterkeeper will include additional violations when information becomes available. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

B. Discharges of Polluted Storm Water from the Liberty Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

As explained herein, the Liberty Facility Owners and/or Operators have violated and continue to violate the Storm Water Permit's Effluent Limitation (B)(3). Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants¹⁴ and best conventional pollutant control technology ("BCT") for conventional pollutants.¹⁵ Information available to Waterkeeper, including observations of the Liberty Facility, demonstrate that the Liberty Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the Liberty Facility that achieve compliance with the BAT/BCT standards.

Further, the Liberty Facility's discharges exceed EPA Benchmarks for numerous pollutants. Those EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent

¹³ The Liberty Facility Owners and/or Operators' failure to properly identify all industrial activities occurring at the Liberty Facility has resulted in violations of the Storm Water Permit and the Clean Water Act described in Sections II.B and II.C below.

¹⁴ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

¹⁵ Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, O&G, pH, and fecal coliform.

Limitation B(3) of the Storm Water Permit.¹⁶ Yet, the Liberty Facility Owners and/or Operators have failed and continue to fail to fully implement even the most basic BMPs to reduce or prevent pollutants in the Liberty Facility's storm water discharges.

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Effluent Limitation B(3) of the Storm Water Permit every time they discharge storm water from the Liberty Facility without BMPs that achieve BAT/BCT. *See, e.g., Exhibit A* (setting forth dates of discharges).¹⁷ These discharge violations are ongoing and will continue every time the Liberty Facility Owners and/or Operators discharge storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the dates of violations when additional information and data become available. Each time the Liberty Facility Owners and/or Operators discharge storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

1. Failure to Implement BMPs that Achieve Compliance with BAT/BCT Standards

The information available to Waterkeeper indicates that the Liberty Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the Liberty Facility that achieve compliance with BAT/BCT standards. Specifically, at the Liberty Facility piles of waste and recyclable materials, including appliances, vehicle components and tires, various metals, and plastics, are processed and stored outdoors without cover or containment near driveways leading to Alba Street and East 57th Street; separation and dismantling is conducted outdoors; hazardous waste fluids are stored outdoors without secondary containment; equipment and machinery are stored outdoors without cover or containment; waste materials overflow from the Facility's boundaries; sediment is tracked off the facility by vehicles exiting through the facility's driveway; diesel, gas, and/or other petroleum products are allowed to spill from Facility; and rodenticide pellets are poured directly onto the sidewalk along the Facility's perimeter. As demonstrated by the Liberty Owners' and Operators' failure to implement even the most basic BMPs such as housekeeping, overhead roofs or cover over material handling, processing, and storage areas, isolation of equipment and machinery from

¹⁶ *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP)*, as modified effective May 27, 2009 ("Multi-Sector Permit").

¹⁷ Exhibit A sets forth the dates in which 0.1 inches or greater of rainfall was documented by the County of Los Angeles Department of Public Works (DPW) at DPW's rain gauge nearest to the Liberty Facility. At a minimum, the Liberty Facility Owners and/or Operators violated Effluent Limitation B(3) of the Storm Water Permit on those dates. While 0.1 inches is considered by EPA and delegated state agencies as sufficient to produce a discharge, Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Effluent Limitation B(3) every time they discharge storm water from the Liberty Facility without BMPs that achieve BAT/BCT, regardless of whether the relevant storm event produces 0.1 inches or greater of rainfall. *See* Order 2014-0057-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit Fact Sheet for Storm Water Discharges Associated with Industrial Activities*, NPDES NO. CAS000001 ("2014 IGP Fact Sheet"), 50.

rain, and sediment and tracking controls to retain sediment on site, the Liberty Owners and Operators have failed and continue to fail to achieve compliance with BAT/BCT standards.

2. Exceedances of EPA Benchmarks

Consistent with the Liberty Facility's failure to develop and implement basic BMPs, the analytical results of storm water sampling conducted by Waterkeeper in the 2012-2013, 2013-2014 and 2014-2015 Wet Seasons demonstrate that storm water discharges from the Liberty Facility contain concentrations of pollutants above the EPA Benchmarks. Discharges were sampled at the Liberty Facility's Alba St. #1 and Alba St. #2 discharge points. The repeated and significant exceedances of EPA Benchmarks set out below confirm and further demonstrate that the Liberty Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the Liberty Facility as required to achieve compliance with the BAT/BCT standards.

Table 1: Sampling Data 2014-2015 Wet Season

Date of Sample	Sample Location ¹⁸	Constituent	EPA Benchmark ¹⁹	Sample Value ²⁰	Magnitude of Exceedance ²¹
12/2/2014	Alba St. #2	TSS	100	4000	40
12/2/2014	Alba St. #2	SC ²²	200	4200	21
12/2/2014	Alba St. #2	O&G	15	30	2
12/2/2014	Alba St. #2	COD ²³	120	5600	46.67
12/2/2014	Alba St. #2	Aluminum	.75	52	69.33
12/2/2014	Alba St. #2	Copper	.0123	13	1056.91
12/2/2014	Alba St. #2	Iron	1	130	130
12/2/2014	Alba St. #2	Lead	.069	3.1	44.93

¹⁸ In this table and in the subsequent tables, the sample location for all samples labeled "Alba St. #1" is the Liberty Facility's southernmost driveway located on Alba Street. The sample location for all samples labeled "Alba St. #2" is a discharge point not identified on the Liberty SWPPP's Facility Map, discharging from underneath the Facility's eastern wall bordering Alba St., south of the Facility's southernmost driveway on Alba St.

¹⁹ See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP), as modified effective May 27, 2009 ("Multi-Sector Permit"). EPA Benchmark Values for all constituents in the tables in this Notice Letter are measured in units of mg/L, except specific conductance, which is measured in umhos/cm, and pH, which is measured in s.u. Certain pollutants, including copper, lead, zinc, silver, and cadmium are water hardness dependent. The EPA Benchmarks listed in this table for hardness dependent pollutants are based on a hardness of 75-100 mg/L. See Multi-Sector Permit, J-2 (Appendix J); see also *Total Maximum Daily Loads for Metals, Los Angeles River and Tributaries*, Staff Report, California Regional Water Quality Control Board, Los Angeles Region, June 2, 2005, 27 (stating that the median hardness of the Los Angeles River is 80 mg/L based upon Los Angeles County Department of Public Works data from Wardlow Station from 1996 to 2002).

²⁰ Sample values for all constituents in Tables 1, 2, and 3 of this Notice Letter are measured in units of mg/L, except specific conductance, which is measured in umhos/cm, and pH, which is measured in s.u.

²¹ The magnitudes of exceedance values in this table and in the subsequent tables were calculated by taking the Sample Value and dividing it by the EPA Benchmark (or California Toxics Rule criteria in Table 4 below).

²² "SC" refers to specific conductance.

²³ "COD" refers to chemical oxygen demand.

12/2/2014	Alba St. #2	Zinc	.11	27	245.45
12/2/2014	Alba St. #2	Silver	.003	.023	7.67
12/2/2014	Alba St. #2	Cadmium	.0018	.14	77.78
12/2/2014	Alba St. #2	Magnesium	.064	47.1	735.94
12/2/2014	Alba St. #2	Selenium	.005	.069	13.8

Table 2: Sampling Data 2013-2014 Wet Season

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Magnitude of Exceedance
2/28/2014	Alba St. #1	SC	200	230	1.15
2/28/2014	Alba St. #1	Aluminum	.75	3.7	4.93
2/28/2014	Alba St. #1	Copper	.0123	2.2	178.86
2/28/2014	Alba St. #1	Iron	1	48	48
2/28/2014	Alba St. #1	Lead	.069	.3	4.35
2/28/2014	Alba St. #1	Zinc	.11	1.6	14.55
2/28/2014	Alba St. #1	Cadmium	.0018	.0091	5.06
2/28/2014	Alba St. #1	Magnesium	.064	2.67	41.72

Table 3: Sampling Data 2012-2013 Wet Season

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
3/8/2013	Alba St. #1	TSS	100	860	8.6
3/8/2013	Alba St. #1	COD	120	270	2.25
3/8/2013	Alba St. #1	Copper	.0123	1.9	54.47
3/8/2013	Alba St. #1	Lead	.069	1.1	15.94
3/8/2013	Alba St. #1	Zinc	.11	4.5	40.91
3/8/2013	Alba St. #1	Mercury	.0014	.0032	2.29
3/8/2013	Alba St. #1	Cadmium	.0018	.0091	5.06
3/8/2013	Alba St. #1	Magnesium	.064	5.09	79.53
3/8/2013	Alba St. #1	Selenium	.005	.033	6.6

C. Discharges of Polluted Storm Water from the Liberty Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact human health or the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an

applicable Water Quality Standard (“WQS”).²⁴ Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Storm water sampling demonstrates that discharges from the Liberty Facility contain elevated concentrations of pollutants such as copper, zinc, mercury, magnesium, selenium, and chromium, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters, as well as threaten human health and designated uses of the Receiving Waters. The storm water sampling at the Liberty Facility demonstrates that discharges contain concentrations of pollutants that cause or contribute to an exceedance of the applicable WQSs. The table below sets forth the results of sampling conducted by Waterkeeper at the Liberty Facility. Each sample result demonstrates violations of Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

Table 4: Sampling Data Demonstrating Exceedances of Water Quality Standards

Date of Sample	Sample Location ²⁵	Constituent ²⁶	WQS ²⁷	Sample Value ²⁸	Magnitude of Exceedance
12/2/2014	Alba St. #2	Cadmium	3.3	33	10
12/2/2014	Alba St. #2	Copper	10.9	1500	137.61
12/2/2014	Alba St. #2	Zinc	97	2700	27.84
12/2/2014	Alba St. #2	Chromium III	460	570	1.24
12/2/2014	Alba St. #2	Mercury	.051	5.8	113.73
12/2/2014	Alba St. #2	E.coli	235	17000	72.34

²⁴ WQSs include pollutant concentration levels determined by the State Board and the EPA to be protective of the Beneficial Uses of the receiving waters. Discharges above WQSs contribute to the impairment of the receiving waters’ Beneficial Uses. Applicable WQSs include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 (“CTR”). The Basin Plan also sets out additional applicable WQSs.

²⁵ The sample location for all samples labeled “Alba St. #1” is the Liberty Facility’s southernmost driveway located on Alba Street. The sample location for all samples labeled “Alba St. #2” is a discharge point not identified on the Liberty SWPPP’s Facility Map, discharging from underneath the Facility’s eastern wall bordering Alba St., south of the Facility’s southernmost driveway on Alba St.

²⁶ This table is referring to the dissolved form of these constituents, with the exception of mercury and selenium, which is referring to the total concentrations.

²⁷ “WQS” refers to pollutant concentration levels determined by the State Board and the EPA to be protective of the Beneficial Uses of the receiving waters. The levels in this table for all parameters with the exception of E.coli are CTR criteria for “priority toxic pollutants” as set forth in 40 C.F.R. § 131.38. CTR criteria for this table are measured in units of µg/L. These criteria are expressed as dissolved metal concentrations in the CTR, with the exception of mercury and selenium which are expressed as total metal concentrations. Certain pollutants, including copper and zinc are water hardness dependent. The CTR criteria for each hardness dependent pollutant is based on a hardness of 80 mg/L for the Los Angeles River. *See Total Maximum Daily Loads for Metals, Los Angeles River and Tributaries*, Staff Report, California Regional Water Quality Control Board, Los Angeles Region, June 2, 2005, 27 (stating that the median hardness of the Los Angeles River is 80 mg/L based upon Los Angeles County Department of Public Works data from Wardlow Station from 1996 to 2002). The WQS level for E.coli is set forth in the Basin Plan and is expressed as MPN/100mL.

²⁸ Sample results for this table are measured in units of µg/L, with the exception of E.coli which is measured in units of MPN/100mL. Sample values represent dissolved metal concentrations, with the exception of mercury and selenium values which represent the total metal concentrations.

Date of Sample	Sample Location ²⁵	Constituent ²⁶	WQS ²⁷	Sample Value ²⁸	Magnitude of Exceedance
2/28/2014	Alba St. #1	Copper	10.9	130	11.93
2/28/2014	Alba St. #1	Zinc	97	650	6.70
2/28/2014	Alba St. #1	Mercury	.051	.46	9.02
3/8/2013	Alba St. #1	Copper	10.9	37	3.39
3/8/2013	Alba St. #1	Zinc	97	140	1.44
3/8/2013	Alba St. #1	Selenium	20	33	1.65
3/8/2013	Alba St. #1	Mercury	.051	3.2	62.75

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2) of the Storm Water Permit are violated each time storm water discharges from the Liberty Facility. *See, e.g., Exhibit A* (setting forth dates of discharges).²⁹ Information available to Waterkeeper indicates that these violations are ongoing and occur every time the Liberty Facility Owners and/or Operators discharge storm water from the Liberty Facility. Waterkeeper will update the dates of violation when additional information and data become available. Each time discharges of storm water from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

D. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Liberty Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated

²⁹ Exhibit A sets forth the dates in which 0.1 inches or greater of rainfall was documented by the County of Los Angeles Department of Public Works (DPW) at DPW's rain gauge nearest to the Liberty Facility. At a minimum, the Liberty Facility Owners and/or Operators violated Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2) of the Storm Water Permit on those dates. While 0.1 inches is considered by EPA and delegated state agencies as sufficient to produce a discharge, Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2) every time they discharge storm water from the Liberty Facility that contains pollutants in concentrations that exceed levels known to adversely impact human health or the environment and/or exceed an applicable WQS, regardless of whether the relevant storm event produces 0.1 inches or greater of rainfall. *See* 2014 IGP Fact Sheet, 50.

on an annual basis pursuant to the requirements of Section A(9) and revised as necessary. *See* Storm Water Permit, Sections A(9) and A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map showing storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); a narrative description and summary of all potential pollutants and their sources including industrial processes, material handling and storage areas, and dust and particulate generating activities (*see* Section A(6)); and a description of locations where soil erosion may occur (*see* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to Waterkeeper indicates that the Liberty Facility Owners and/or Operators began conducting industrial operations at the Liberty Facility without developing a SWPPP, as required by the Storm Water Permit. In fact, in each Annual Report filed since the Facility began industrial operations, the Liberty Facility Owners and/or Operators acknowledge that they have failed to comply with the Permit's requirements, including failing to develop a SWPPP. Further, the May 8, 2014 SWPPP is inadequate and thus the Liberty Owners and/or Operators continue to conduct operations at the Liberty Facility without an adequately developed, implemented, and/or revised SWPPP. The Liberty Owners and/or Operators have been conducting and continue to conduct operations at the Liberty Facility in violation of Section A(1) and Provision E(2) of the Storm Water Permit, since at least April 20, 2012.

In addition, the Liberty SWPPP fails to include an adequate site map that meets all of the requirements of Section A(4) of the Storm Water Permit. The site map included in the Liberty SWPPP does not include, among other requirements: an outline of all storm water drainage areas within the facility boundaries; an outline of all impervious areas of the facility, including paved areas; the direction of flow of each drainage area; the location of storm water collection and conveyance systems, along with associated points of discharge; structural control measures that affect storm water discharges; areas of soil erosion; nearby waterbodies; locations where materials are directly exposed to precipitation; all areas of industrial activities, such as the separation and dismantling area and hazardous waste fluids storage area; and municipal storm drain inlets where the Facility's storm water discharges may be received. *See* Storm Water Permit, Section A(4).

Further, although many of the headings in the Liberty SWPPP match the requirements of the Storm Water Permit, the SWPPP does not include the specific information required under each heading. For example, although the SWPPP includes a list of significant materials at the Liberty Facility, the list does not include all significant materials handled or stored at the site, such as metal scraps, electronic waste, anti-freeze and other waste fluids, batteries, alternators,

motors, catalytic converters, radiators, water heaters, refrigerators, tires, plastics, and other materials. *See* Liberty SWPPP, 8. The list also fails to provide the typical quantities of those materials, the frequency that they are received, and the locations where the materials are being stored, received, shipped, and handled. *See id.*; *see also* Storm Water Permit, Section A(5). To further illustrate, the Liberty SWPPP's Pollution Prevention Team list does not identify any individuals responsible for sampling and visual monitoring and fails to identify the specific individuals responsible for BMP implementation. *See* Liberty SWPPP, 3; *see also* Storm Water Permit, Section A(3)(a).

The Liberty SWPPP also does not adequately describe the industrial activities, potential pollutant sources, and potential pollutants to the extent required by Sections A(6) and A(7) of the Storm Water Permit. The SWPPP does not include a narrative description and summary of all potential pollutants and their sources and does not assess all industrial activities and pollutant sources to identify which pollutants are likely to be present in storm water discharges. *See* Storm Water Permit, Sections A(6)(a), A(6)(b), and A(7)(a). To illustrate, while the Liberty Facility handles, processes, and stores metal scraps, batteries, alternators, motors, catalytic converters, radiators, water heaters, refrigerators, tires, plastics, and a variety of other materials, the SWPPP does not list the potential pollutants associated with those pollutant sources, including, but not limited to: oil and grease; gasoline, diesel and other petroleum products; lubricants; coolants; battery acid; other hazardous waste fluids; metals such as aluminum, nickel, mercury, silver, chromium, and cadmium; substances affecting Biochemical Oxygen Demand and Chemical Oxygen Demand; and pH-affecting substances. *See* Liberty SWPPP, 6 and 12–16. Instead, the SWPPP merely states that the pollutants entering the yard are “diverse” and are “primarily” suspended solids, copper, lead, zinc, iron, and plastic materials or any combination of alloys. That list is incomplete and does not identify the specific sources of each pollutant or the quantities of the materials handled and stored at the Liberty Facility. *See* Liberty SWPPP, 6. Additionally, the SWPPP does not describe the type, characteristics, and quantity of significant materials used in the Liberty Facility's industrial processes or provide a description of the manufacturing, cleaning, rinsing, recycling, disposal, or other activities related to industrial processes. *See id.*; *see also* Storm Water Permit, Section 6(a)(i). For example, the separation and dismantling activities at the Liberty Facility involve the cutting and breaking down of metal scraps. *See* Liberty SWPPP, 15. However, neither the quantity of materials, the method of addressing the small solid pieces and dust or particulates that result from that process, nor the pollutant characteristics associated with the process are included in the SWPPP. *Id.* Additionally, the SWPPP fails to include any discussion of the CPU Material area identified by the Liberty SWPPP's site map, including the industrial activities occurring in that area, the materials handled, and the associated potential pollutants. Further, the SWPPP does not describe potential sources of non-storm water discharges or the locations where soil erosion may occur as a result of industrial activity or storm water discharges associated with industrial activity. *See* Storm Water Permit, Sections 6(a)(v) and (vi).

Finally, the Liberty Owners and/or Operators have not conducted an adequate assessment of potential pollutant sources, developed BMPs for each potential pollutant, or evaluated the effectiveness of each BMP. *See* Storm Water Permit, Section A(8). Instead, the Liberty SWPPP merely states generalities. For instance, the SWPPP's “Description of Potential Pollutants”

describes materials handled as “always changing in composition” and potential pollutants as “residual contaminants,” “liquids or gases,” and “small solid pieces.” *See* Liberty SWPPP, 6. Accordingly, the Liberty Owners and/or Operators fall far short of providing the level of specificity required by Section A(8) of the Storm Water Permit. Additionally, the Liberty Owners and/or Operators fail to include an adequate summary of all BMPs implemented for each pollutant source in a manner similar to the Storm Water Permit’s Table B. *See* Storm Water Permit, Section A(6)(b).

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Section A and Provision E(2) of the Storm Water Permit and the Clean Water Act every day that they operate the Liberty Facility without an adequately developed, implemented, and/or revised SWPPP. The Liberty Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit’s SWPPP requirements since at least April 20, 2012. These violations are ongoing, and Waterkeeper will include additional violations as information and data become available. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program (“M&RP”) by October 1, 1992, or when industrial activities begin at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility’s discharge to ensure compliance with the Storm Water Permit’s Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). An adequate M&RP therefore ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge of at least one storm event per month during the Wet Season at each discharge point. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to collect storm water samples during the first hour of discharge from the first storm event of the Wet Season and at least one other storm event during the Wet Season. A sample must be collected from each

discharge point at the facility. Storm water samples must be analyzed for TSS, pH, specific conductance ("SC"), and total organic carbon ("TOC") or O&G. Facilities classified as SIC code 5093, such as the Liberty Facility, must also analyze their storm water samples for iron, lead, aluminum, zinc, copper, and Chemical Oxygen Demand ("COD"). *See* Storm Water Permit, Section B(5)(c)(iii); Table D (Sector N). Additionally, because the Liberty Facility conducts industrial activities classified as SIC code 4953, the Liberty Facility Owners and/or Operators must also sample for ammonia, magnesium, arsenic, cadmium, cyanide, mercury, selenium, and silver. Further, all facilities must analyze their storm water samples for "toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Storm Water Permit, Section B(5)(c). Pursuant to Section B(7)(a), facilities must visually observe and collect samples of storm water discharges from all drainage areas that represent the quality and quantity of the facility's storm water discharges.

Although the Liberty Facility Owners and/or Operators sought Permit coverage in April 2012, they have not conducted any quarterly visual monitoring, monthly wet season visual observation, or storm water discharge sampling since that date, including the 2011-2012, 2012-2013, or 2013-2014 reporting periods. Therefore, the Liberty Owners and/or Operators have been in continuous violation of Sections B(3), (4), (5), and (7) of their Storm Water Permit since they first obtained coverage on April 20, 2012.

In fact, information available to Waterkeeper indicates that the Liberty Facility Owners and/or Operators began conducting industrial operations at the Liberty Facility without a M&RP. Further, the May 8, 2014 M&RP is inadequately developed and implemented and thus the Liberty Facility Owners and/or Operator continue to operate without an adequately developed and implemented M&RP in violation of Storm Water Permit Section B(1)(a) and Provision E(3). To illustrate, the Liberty SWPPP indicates that the Liberty Facility Owners and/or Operators only intend to sample for TSS, pH, SC, O&G or TOC, zinc, lead, copper, and COD. *See* Liberty SWPPP, 20. However, the Storm Water Permit also requires the Liberty Facility Owners and/or Operators to sample for aluminum and iron because they conduct industrial activities classified under SIC code 5093 and ammonia, magnesium, arsenic, cadmium, cyanide, mercury, silver, and selenium because they conduct activities classified under SIC code 4953. *See* Section B(5)(c)(iii); *see also* Table D. Further, the Liberty SWPPP does not provide for sampling to identify any toxic chemicals or other pollutants that are likely to be present in storm water discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c)(ii). Accordingly, at a minimum, the Facility's M&RP is inadequately developed because it fails to account for sampling for the following constituents: aluminum, iron, ammonia, magnesium, arsenic, cadmium, cyanide, mercury, selenium, chromium, and any toxic chemicals or other pollutants likely to be present in significant quantities in the Liberty Facility's storm water discharges. *See* Storm Water Permit Sections B(5)(c)(ii) and B(5)(c)(iii) and Table D. Accordingly, information available to Waterkeeper indicates that the Liberty Facility Owners and/or Operators have continuously conducted operations in violation of Section B(1)(a) and Provision E(3) of their Storm Water Permit since April 20, 2012.

Further, the M&RP in the Liberty SWPPP fails to accurately identify the discharge points at which visual monitoring and sampling will be conducted. The M&RP states that the sampling

points are located at the "Northwest Gate" and "Southeast Gate." *See* Liberty SWPPP, 20. However, information available to Waterkeeper indicates that the Liberty Facility in fact has no gates on the northwestern or southeastern portions of the site. Without proper identification of the Facility's storm water discharge locations, it is impossible that the Liberty Owners and/or Operators adequately implement the M&RP to meet the Storm Water Permit's requirement that the Liberty Facility Owners and/or Operators visually observe and collect samples of storm water discharges from all drainage areas that represent the quality and quantity of the facility's storm water discharges. *See* Section 7(a).

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Section B and Provision E(3) of the Storm Water Permit and the Clean Water Act every day that they conduct operations without an adequately developed, implemented, and/or revised M&RP. The Liberty Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least April 20, 2012. These violations are ongoing, and Waterkeeper will include additional violations as information and data become available. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

F. Failure to Comply with the Storm Water Permit's Annual Comprehensive Site Compliance Evaluation Requirements

Section A(9) of the Storm Water Permit requires facility operators to conduct one comprehensive site compliance evaluation in each reporting period (July 1–June 30). Each evaluation must include a review of all visual observation records, inspection records, and sampling and analysis results; and a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system. Storm Water Permit, Section A(9). Additionally, as part of the Annual Comprehensive Site Compliance Evaluation, the facility operator shall review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *Id.*

Information available to Waterkeeper indicates that the Liberty Facility Owners and/or Operators have continuously failed to conduct any Annual Comprehensive Site Compliance Evaluations that comply with Section A(9). In all three of the Liberty Facility's Annual Reports since the Facility obtained coverage under the Storm Water Permit in April 20, 2012, the Liberty Facility Owners and/or Operators stated that they did not conduct the minimum steps necessary to complete an Annual Comprehensive Site Compliance Evaluation. Liberty Facility's 2011-2012, 2012-2013, and 2013-2014 Annual Reports, Section H (ACSCE Checklist). Accordingly, the Liberty Owners and/or Operators have continuously violated the Storm Water Permit's requirement to conduct an Annual Comprehensive Site Compliance Evaluation and as a result have failed to revise the Liberty SWPPP and the Liberty Facility's BMPs based on the results of an Annual Comprehensive Site Compliance Evaluation.

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Section A(9) of the Storm Water Permit every day they operate the Liberty Facility without having completed an Annual Comprehensive Site Compliance Evaluation. These violations are

ongoing and will continue every day the Liberty Facility Owners and/or Operators operate without completing the required Annual Comprehensive Site Compliance Evaluations in accordance with Section A(9).

Every day the Liberty Facility Owners and/or Operators operate the Liberty Facility without having completed the Annual Comprehensive Site Compliance Evaluations in accordance with Section A(9) is a separate and distinct violation of the Storm Water Permit. The Liberty Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's Section A(9) requirements every day since at least April 20, 2012. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

G. Failure to Comply with the Storm Water Permit's Reporting Requirements

Section B(14) of the Storm Water Permit requires permittees to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results; 2) an evaluation of the visual observation and sampling and analysis results and the laboratory reports; 3) the Annual Comprehensive Site Compliance Evaluation Report; and 4) an explanation of why the facility did not implement any activities required by the Permit. Section B(14). The Annual Report shall be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of their knowledge. *See* Storm Water Permit, Sections B(14), C(9), and C(10).

Since first obtaining coverage under the Storm Water Permit on April 20, 2012, the Liberty Owners and/or Operators have continuously failed to submit any Annual Reports that comply with the Storm Water Permit's reporting requirements by, at a minimum, failing to timely submit the Annual Reports, failing to include failing to include Annual Comprehensive Site Compliance Evaluation Reports and monitoring results, and inaccurately stating that the Facility discharges storm water from only one location.

The Liberty Facility's Annual Reports for the 2011-2012 and 2012-2013 Wet Seasons were not submitted to the Regional Board until August 8, 2014. *See* Liberty Facility's 2011-2012 Annual Report (signed and dated by Sindy Cardona on August 8, 2014); *see also* Liberty Facility's 2012-2013 Annual Report (signed and dated by Sindy Cardona on August 8, 2014). Additionally, the Liberty Facility's 2013-2014 Annual Report was also submitted late, as it was not signed until August 11, 2014. *See* Liberty Facility's 2013-2014 Annual Report (signed and dated by Sindy Cardona on August 11, 2014). Therefore, the Liberty Owners and/or Operators have continuously violated the Storm Water Permit's Section B(14) requirement that all facility operators submit an Annual Report by July 1 of each year to the Regional Board.

Further, in the Liberty Facility Annual Reports, the Liberty Owners and/or Operators inaccurately state the number of storm water discharge locations. In all three of the Liberty Facility's Annual Reports since the Facility obtained coverage under the Storm Water Permit, the Liberty Facility Owners and/or Operators certified that the Facility only has one storm water

discharge location. *See* Liberty Facility's 2011-2012, 2012-2013, and 2013-2014 Annual Reports. However, according to the Liberty SWPPP and Waterkeeper's observations, the Liberty Facility has at least two storm water discharge locations. *See* Liberty SWPPP, 20 ("Monitoring Requirements"). Therefore the Liberty Owners and/or Operators have continuously violated Section B(14) of the Storm Water Permit and falsely certified the accuracy of the Liberty Facility's Annual Reports. *See* Storm Water Permit, Sections B(14), C(9), and C(10).

Waterkeeper puts the Liberty Facility Owners and/or Operators on notice that they violate Section B(14) of the Storm Water Permit every day they operate the Liberty Facility without submitting annual reports that fully comply with the Storm Water Permit's requirements. These violations are ongoing and will continue every day the Liberty Facility Owners and/or Operators operate without submitting Annual Reports in accordance with Section B(14).

Every day the Liberty Facility Owners and/or Operators operate the Liberty Facility without submitting annual reports that fully comply with the Storm Water Permit's Section B(14) requirements is a separate and distinct violation of the Storm Water Permit. The Liberty Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least April 20, 2012. The Liberty Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since April 20, 2012.

H. Relief and Penalties Sought for Violations of the Clean Water Act

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

III. Conclusion

Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the Liberty Facility Owners' and/or Operators' violations of the Storm Water Permit. During the 60-day notice period, however, Waterkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions please contact Waterkeeper. Please direct all communications to Waterkeeper's legal counsel:

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Santa Monica, Ca 90401

Sincerely,



Liz Crosson
Executive Director
Los Angeles Waterkeeper

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VIA U.S. CERTIFIED MAIL

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Los Angeles Waterkeeper Notice of Violations and Intent to File Suit - Exhibit A

Days With Significant Rain Events (Rain Fall Above .1 inches)

April 20 2012 - March 9 2015

(316 - 96th Street and Central Rain Gage)¹

Date	Rainfall (in.)
4/25/2012	0.28
4/26/2012	0.12
10/11/2012	0.35
11/17/2012	0.2
11/29/2012	0.11
11/30/2012	0.43
12/3/2012	0.27
12/18/2012	0.19
12/24/2012	0.62
12/26/2012	0.24
12/29/2012	0.27
1/24/2013	0.62
1/25/2013	0.12
1/26/2013	0.23
2/8/2013	0.28
2/19/2013	0.15
3/8/2013	0.43
5/6/2013	0.23

Date	Rainfall (in.)
11/21/2013	0.12
11/29/2013	0.31
12/7/2013	0.2
2/6/2014	0.15
2/27/2014	1.03
2/28/2014	1.14
3/1/2014	0.9
4/1/2014	0.16
11/1/2014	0.43
11/30/2014	0.19
12/2/2014	0.9
12/3/2014	0.39
12/12/2014	1.33
12/16/2014	0.59
1/10/2015	0.35
1/11/2015	0.27
2/22/2015	0.32
3/1/2015	0.24
3/2/2015	0.23

¹On November 12, 2014, the Los Angeles County Department of Public Works' rain gauge located at 96th Street and S Central Avenue was moved. The new location is 33.954881 / 118.23359 (Lat./Long.) and is now identified as "Los Angeles – RD 241." All data after November 12, 2014 contained in this Exhibit is from Los Angeles – RD 241.